

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Closed Captioning of)	
Video Programming)	CG Docket No. 05-231
)	
Telecommunications for the Deaf, Inc.)	
Petition for Rulemaking)	

COMMENTS



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I. Introduction and Summary.

To avoid unnecessary administrative burdens and costs on small and medium-sized cable companies, the American Cable Association (“ACA”) asks the Commission not to adopt the changes proposed in the *TDI NPRM*.¹ ACA supports the analysis and conclusions filed by the National Cable & Telecommunications Association (“NCTA”) on October 4, 2004 (“*NCTA’s Opposition*”),² especially when applied to small and medium-sized cable companies.

As described in *NCTA’s Opposition*, the current regulations governing quality standards, monitoring, complaint procedures, and reporting for closed captioning are effective.³ Changes to these rules are unwarranted. These comments explain why the proposed changes would impose significant administrative burdens and costs on small and medium-sized cable companies, with little if any corresponding public interest benefit. For these reasons, the Commission should retain the existing regulations.

The American Cable Association. ACA represents nearly 1,100 independent cable companies serving about 8 million cable subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states and in virtually every congressional district. The companies range from family-run cable businesses serving a single town to multiple system operators that focus on serving smaller markets. More

¹ *In the Matter of Closed Captioning of Video Programming Telecommunications for the Deaf, Inc. Petition for Rulemaking, Notice of Proposed Rulemaking*, FCC 05-142, CG Docket No. 05-234, (rel. July 21, 2005) (“*TDI NPRM*”).

² *Opposition of the National Cable & Telecommunications Association*, RM-11065 (October 4, 2004). *NCTA’s Opposition* was filed in response to *Telecommunications for the Deaf Inc. et al. Petition for Rulemaking*, RM-11065 (July 23, 2004) (“*TDI Petition*”).

³ *NCTA Opposition* at 4-10.

than half of ACA's members serve fewer than 1,000 subscribers. All ACA members face the challenge of complying with regulatory burdens with limited administrative and financial resources.

II. The changes proposed in the *TDI NPRM* would impose substantial administrative burdens and costs on small and medium-sized cable companies with little corresponding public interest benefit.

The proposed modifications to the "pass through" requirement would obligate cable operators to police network and broadcaster compliance with mandatory closed captioning rules for non-exempt programming.⁴ As noted by NCTA, cable operators pass the programming signal, including closed captioning data, as received from the program network or broadcaster.⁵ The cable operator plays no role in creating the closed captioning.⁶ Moreover, most programming agreements specifically prohibit an operator from modifying the signal as received at the headend. In short, the cable operator has little or no actual control over the quality or content of the closed captions received by the viewer.

The Commission has acknowledged these limitations. Current regulations entitle operators to "rely upon certifications of compliance from the various networks they carry."⁷ This system has resulted in a high level of compliance.⁸ For these reasons, the

⁴ *TDI NPRM* at ¶ 2.

⁵ *NCTA Opposition* at 9.

⁶ See *Closed Captioning and Video Description of Video Programming*, 13 FCC Rcd. 3272 (1997) ("Report and Order") at ¶ 212. Cable operators may rely on certification by programming suppliers that programming contains captioning and need not view every program before distribution to consumers.

⁷ *Id* at ¶ 244.

Commission should deny the requested changes. The proposed regulations would only layer additional administrative burdens costs over existing compliance mechanisms. Especially for small and medium-sized cable companies, the cost of implementing procedures to monitor, on a 24/7 basis, the programming delivered by networks and broadcasters exceeds any conceivable benefit. The well-established policy of alleviating substantial administrative burdens and costs on smaller providers should be incorporated into the important policy goals of closed captioning.⁹

In summary, ACA supports NCTA's request that the Commission not impose additional quality standards and monitoring requirements on cable operators.

III. Concerns about processing of closed-captioning complaints do not warrant increased administrative burdens and costs for small and medium-sized cable companies.

TDI's Petition states that under current complaint procedures, a cable operator could take up to four months to respond to a complaint. As noted by NCTA, TDI provides no evidence of any unreasonable delay in response to complaints.¹⁰ Moreover, among ACA members, we could not find a single closed captioning

⁸ See "*The State of Closed Captioning in the United States*," Annenberg Public Policy Center at 31 (2003).

⁹ The 1992 Cable Act and the 1996 Telecommunications Act both contain Congress' express recognition of the public interest served by the reducing the administrative burden on small cable systems. See, e.g., 47 USC § 543(i); Section 301(c) 1996 Telecommunications Act (providing greater deregulation for small systems), codified at 47 USC § 543(m). See, also, *In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration* 10 FCC Rcd. 7393, at 7401-7402 and 7420 (1995) at ¶¶ 25-27 (The Commission determined that characteristics of cable companies serving 400,000 or fewer subscribers warranted substantial regulatory relief.). The Commission recently applied the same standard in adopting special conditions for small and medium-sized cable companies in *In re Consolidated Application of General Motors Corporation, Hughes Electronic Corporation, and The News Corporation, For Consent to Transfer Control*, 19 FCC Rcd. 473 (2004), ¶¶ 176, 223.


¹⁰ *Id.* at 7.

complaint. The lack of evidence of abuse or unreasonable delay in responding to complaints shows that the current regulations are working. The record does not support imposing additional administrative burdens and costs, especially on small and medium-sized cable companies.

IV. Conclusion.

Small and medium-sized cable companies provide valuable services to all members of their communities, including those who depend on closed captioning. The record shows that the existing rules protect the interests of these consumers. The proposed rule changes would result in substantial administrative burdens and costs, without any demonstrable benefit to the public. The Commission should carefully consider *NCTA's Opposition* and decline to adopt the proposed rule changes.

Respectfully submitted,

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